

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing

(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/B2005/000487

International filing date (day/month/year)
23.02.2005

Priority date (day/month/year)
27.02.2004

International Patent Classification (IPC) or both national classification and IPC
A61J3/07

Applicant
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1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

10/588506

International application No.
PCT/IB2005/000487

AP20 Rec'd PCT/PTO 04 AUG 2006

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2005/000487

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	4-11,13-25
	No: Claims	1-3,12
Inventive step (IS)	Yes: Claims	13-23
	No: Claims	1-12,24-25
Industrial applicability (IA)	Yes: Claims	1-25
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

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Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1 Reference is made to the following documents:

- D1: GB-A-2 025 270 (CAPSUGEL AG) 23 January 1980 (1980-01-23)
- D2: WO 95/34269 A (WARNER-LAMBERT COMPANY) 21 December 1995 (1995-12-21)
- D3: US-A-4 466 844 (MACLAUGHLIN ET AL) 21 August 1984 (1984-08-21)
- D4: EP-A-0 110 603 (WARNER-LAMBERT COMPANY) 13 June 1984 (1984-06-13)
- D5: US-A-4 656 066 (WITTWER ET AL) 7 April 1987 (1987-04-07)

2 The present application does not meet the criteria of Article 33(1) PCT,

2.1 The document D1 (page 2, line 117 - page line 7, fig. 1 - 3) discloses (the references in parentheses applying to this document):

A method for producing sealed capsules, each defined by a body coupled with a lid (C), the method at least comprising the steps of filling the capsule body with a quantity or dose of material and closing the capsule by placing the lid (C) over the body so that their respective annular ends overlap whereby it further comprises a step of applying a sealing substance to one of the overlapped ends of the capsule body and lid (C), said sealing step being performed before the capsule is closed.

Document D2 (page 11 - page 10, line 12, fig. 1 - 6) also discloses a method including all the features of claim 1.

Therefore, the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

2.2 Document D1 (page 2, line 117 - page line 7, fig. 1 - 3) discloses a capsule filling machine including all the technical features of claim 12. Therefore, the subject-matter of claim 12 is also not new in the sense of Article 33(2) PCT.

- 2.3 Dependent claims 2 to 11 and 24, 25 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step, the reasons being as follows:

Novelty:

D2, page 11 - page 10, line 12, fig. 1 - 6; for claim 2 and 3

Inventive step:

D4, page 2, lines 22 - 36, page 3, lines 19 - 24, page 5, lines 13, 14, fig. 1, 2; for claims 4 - 9

D5, column 9, line 56 - column 10, line 25; fig. 4, 5; for claims 10, 11, 24 and 25

- 2.4 Document D1, which is considered to represent the most relevant state of the art, discloses (page 2, line 117 - page line 7, fig. 1 - 3) a capsule filling machine from which the subject-matter of claim 13 differs in that the intermediate operation station for applying a sealing substance comprises, one after the other, a substation for precoupling and a substation for applying the sealing substance. In D1 the sealing substance is applied only in one part of the capsule before coupling body and lid.

The subject-matter of claim 13 is therefore new (Article 33(2) PCT).

The problem to be solved by the present invention may be regarded as to handle the capsule to be sealed in a simple way and to obtain a good distribution of the sealing substance, without decrease of productivity.

The solution to this problem proposed in claim 13 of the present application is considered as involving an inventive step (Article 33(3) PCT) for the following reasons:

after a precoupling phase the capsule is not totally closed and therefore the sealing substance can still be applied to both overlapped ends and distributed in a proper way. When entering the substation for applying the sealing substance body and lid are precoupled so that they can be handled as single unit in a simple way.

Claims 14 to 23 are dependent on claim 13 and as such also meet the requirements of the PCT with respect to novelty and inventive step.

Remarks:

When entering the European Regional Phase the applicant should have in mind that the EPO cannot grant two patents to the same applicant for one invention. This application PCT/IB2005/00487 and application PCT/IB2005/0000479, also from the same applicant, include some claims claiming the same subject-matter.

Re Item VII

Certain defects in the international application

- 3 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.

Re Item VIII

Certain observations on the international application

- 4 The embodiment of the invention described on pages 6, lines 4, 5, does not fall within the scope of the claims. This inconsistency between the claims and the description leads to doubt concerning the matter for which protection is sought, thereby rendering the claims unclear, Article 6 PCT. According to the description page 6, lines 4, 5, the step of applying the sealing substance can be performed during the overlapping (precoupling phase), while in the claims two independent phases for precoupling and application of the sealing substance are claimed.